Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board

Medicare Access

Informational Briefing

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1. Issue

Some LEOFF Plan 2 members are not covered by Medicare and may not be aware of a recent law change which increases accessibility to these Federal Benefits.

2. Staff

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3. Members Impacted

There is no data available regarding the number of general government employees not covered by Medicare.

4. Current Situation

Law enforcement officers, firefighters, and other public employees participating in qualified retirement systems may obtain Medicare coverage through the "divided referendum" process. Following the completion of this process, those members voting in favor of Medicare coverage will constitute a coverage group separate from those members voting against the referendum.

5. Background Information and Policy Issues

Federal Law/Social Security Act
The federal Social Security Act (SSA) authorizes the states and the federal government to enter into agreements regarding how federal retirement benefit programs such as Medicare and Social Security will be incorporated into retirement systems implemented by the states for their public employees, both state and local. Pursuant to such agreements, the SSA allows the states considerable flexibility in determining which state / local government retirement systems will participate in the various federal retirement benefit programs. Absent a specific agreement with the federal government, a state or local retirement system will not include federal retirement benefits and the employees without such benefits will not be assessed the pertinent federal payroll taxes.

Section 218 Agreements
When the federal Social Security Act began in 1935, public employees were not eligible for Social Security benefits. This was due to a Constitutional question regarding the federal government's power to tax state and local governments. Consequently, many government employees were without a retirement plan.

In 1951, Section 218 of the Act authorized states to voluntarily elect Social Security coverage for public employees who were not already covered under a retirement plan. These Federal-State Agreements, often referred to as Section 218 Agreements, were entered into with the SSA.

The provisions of the SSA allow a state to implement a referendum process to determine whether or not a state or local retirement benefits coverage group will participate in federal retirement benefits programs. Under this process, eligible employees must participate in such federal programs in accordance with the state / federal agreement provided the following conditions are met:

- eligible employees participate in a referendum by secret written ballot on the question of whether the positions covered by the retirement system should be included or excluded from participation in the federal programs;
- eligible employees were given an opportunity to vote on the referendum;
- not less than 90-days notice of such referendum was given to all eligible employees;
- the referendum is conducted under the supervision of the Governor, an agency or an individual designated by her or him;
- a majority of the eligible employees vote in favor of participating in the federal retirement programs in accordance with the state / federal agreement.

Federal law does allow the state to utilize an alternative referendum process, sometimes referred to as the "divided referendum process" that, once completed, results in the division of the retirement system into two separate divisions or parts: 1) one division that will participate in the federal retirement programs and is composed of those employees who voted in favor of the referendum; and 2) one division that does not participate in the federal programs and is composed of those employees who voted against the referendum.

Washington State Law
State law pertaining to the regulation of public employee retirement systems codifies and implements most of the basic features of the federal law outlined above. Under state law, and consistent with the SSA, the Governor is authorized to enter into an agreement with the federal government for the purpose of extending the benefits of federal retirement programs to the employees of the state and local governments.

Such an agreement may contain a wide range of provisions relating to coverage, benefits, contributions, effective date, modification, termination of the agreement, and administration. Prior to 2008, the state regulatory scheme included the basic referendum process outlined in the SSA allowing simple majority rule.

Local Governments
There are 139 local governments that have, as allowed by federal law, opted out of coverage by Social Security for all or a portion of their employees over time. Some local governments that opted out of these federal programs make employer contributions equal to or larger than those that would have gone to the federal government on behalf of their employees to alternative retirement programs some of which may include medical benefits.

Prior to April 1986, employers also opted out of Medicare. However, starting on April 1, 1986, all employers were required to participate in Medicare for those employees hired after that date. This meant that employees hired prior to April 1986 who have worked continuously are not covered by Medicare could only qualify for Medicare benefits through working for another employer for 10 years (40 quarters) or if a referendum authorized by their employer approved of coverage. No data is currently available about how many members exist in the 1986 no coverage group.

House Bill 2510, passed during the 2008 Legislative Session allows LEOFF Plan 2 members to obtain Medicare coverage through the "divided referendum" process. Following the completion of this process, those members voting in favor of Medicare coverage constitute a coverage group separate from those members voting against the referendum.

The new process simply provides covered retirees with an additional, voluntary benefits option, i.e., Medicare coverage, which applies only to those who expressly request such coverage. The offering of this option does not directly affect the pension benefits or rights of current or future retirees who have decided against participation in the Medicare program.

Washington State Program Administrator

Since 1951, the Employment Security Department has been responsible for administering the Social Security and Medicare Coverage Program, also known as Old Age Survivor Insurance (OASI) for all state and local (public) governmental employers throughout the State of Washington.

Effective July 1, 2009, the Department of Retirement Systems (DRS) became the Social Security Administrator of the Old- Age and Survivors Insurance (OASI) Program. Responsibilities include administration of the state's Section 218 agreement.

As the new administrator, DRS assists all of Washington's public employers by serving as a facilitator and communication bridge between those employers and the Social Security Administration (SSA) and Internal Revenue Service (IRS). The SSA and IRS are the two principal federal agencies responsible for coverage, benefits and tax withholding associated with Social Security and Medicare.

New Program for Medicare-Only Access

The 2008 Legislature passed HB 2510, which allows local governments to request a divided referendum in which employees can vote to participate in Medicare. DRS will administer the divided referendum process as the Social Security Administrator of the Old- Age and Survivors Insurance (OASI) Program.

The new program only affects employees who:

- Do not currently pay Medicare taxes;
- Were hired before April 1, 1986; and
- Have been in continuous employment through the date of the referendum.

DRS has done some direct communications and outreach regarding the new program. DRS has notified employers through their Employer Newsletter that was sent out in early July 2009, that DRS was now the Washington State Social Security Administrator and responsible for administering the OASI program. DRS representatives also attended the No Secrets Labor Management Symposium on October 27, 2009 in Tacoma. DRS delivered a presentation about HB 2510 and explained the process for holding a divided referendum vote. DRS has also provided training along with a Social Security Representative to each employer holding a referendum. These trainings are for the employees to come and ask questions about their own coverage in order to make an informed decision before casting their vote.

Recent Activity - Divided Referendum

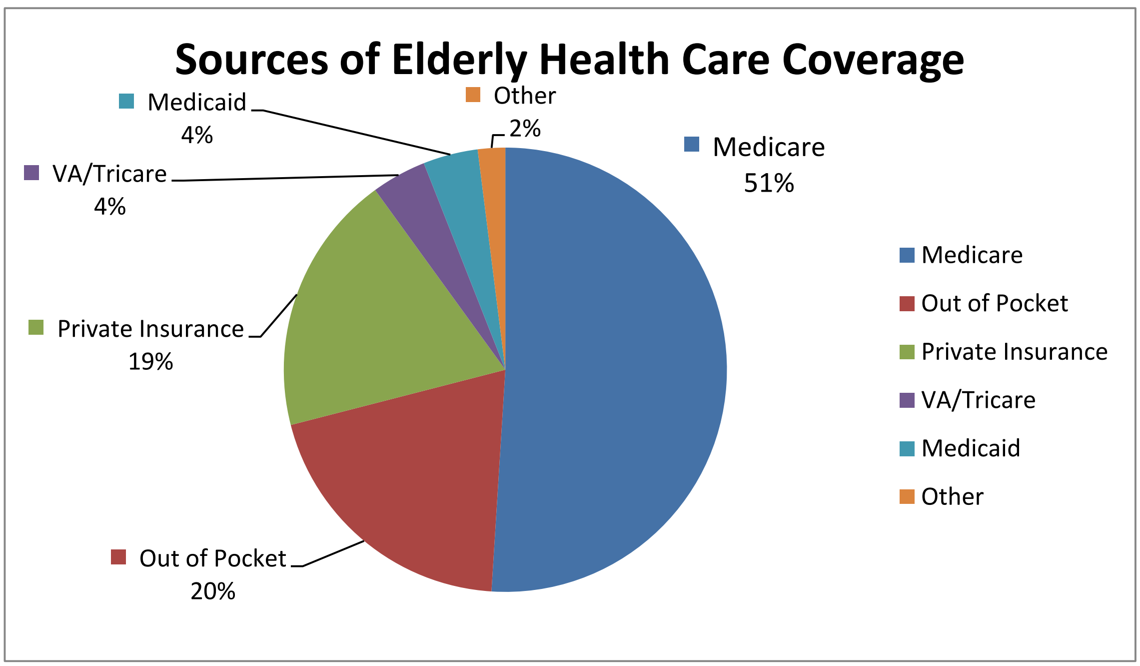
Seven employers are currently going through the Referendum Process. Four have completed their voting and the other three will be voting within the next couple of months. With the first four referendums, there were 92 eligible to vote with a total of 19 members voting yes and electing Medicare coverage.

Health Insurance and Health Care Funding

Maintaining Retirement Security. Because a majority of workers will not be eligible for employment-based retiree health benefits, individuals have primary responsibility for health care expenses in retirement and may experience erosion of their retirement benefits. This effect becomes even greater for those who do not have Medicare coverage. Medicare covers just over one-half of retiree health expenses.

The Increasing Burden. It has also been shown that retirees are going to continue to bear an increasing burden of out-of-pocket costs in the future. For retirees with free Medicare Part A and access to employment-based retiree health benefits, to pay the full cost of premiums and out-of-pocket expenses for the rest of their lives, a *couple* age 65 today will need $295,000. A couple with drug use significantly above average may need more than $299,000.

The Value of Medicare Benefits. The Employee Benefits Research Institute (EBRI) estimates that among non-institutionalized beneficiaries, Medicare covers only 51 percent of expenses associated with health care services. The present value of lifetime Medicare benefits for a *couple*, both age 65 and retiring in 2005, was $328,000. Individuals are in large part responsible for covering the other 49 percent. Thus, if Medicare benefits are not available, a couple age 65 today may need significantly more than $299,000 for health care expenses in retirement to cover the gap left by no Medicare Part A benefits.



Employment-Based Retiree Health Benefits

Individuals with employment-based retiree health benefits in addition to Medicare coverage typically have a rich benefit package. Most plans have a deductible, after which the plan covers out-of-pocket costs for inpatient and outpatient services with an out-of-pocket maximum, and nearly all provide prescription drug benefits. One study found the average annual premium of a retiree health plan for retiree-only coverage to be $4,080 for new Medicare-eligible retirees in 2005, of which retirees pay $1,536, or 38 percent of the total premium.

However, 19 percent of employers offering benefits to Medicare beneficiaries require them to pay the full cost of the premium. Like Medicare, employment-based retiree health benefit programs typically require cost sharing when retirees receive health care services. Slightly more than 70 percent of employer plans have a deductible, although three-quarters cap out-of-pocket expenses for retirees. In 2005, the most common deductible among plans with a deductible was $250, while the most common out-of-pocket maximum was $1,500. Furthermore, it is common for plans to not subject prescription drug coverage to deductibles and out-of pocket maximums that are separate from other covered services.

As high as they are, these projections are probably underestimating the amount of money needed in retirement for health care expenses. If health care costs increase faster than projected, or if individuals live beyond average life expectancy, retirees will need more money than suggested above.

The estimates of savings needed increase substantially for future retirees to pay for health insurance premiums, Medicare Part B premiums, and out-of-pocket health care costs during retirement for a person with access to employment- based health benefits.

The estimates in the figure below are for an *individual* who is 55 years old today and does not retire until age 65 in 2016. It also assumes the individual will have access to retiree health benefits through a former employer, but the plan is an access-only plan, such that the individual is responsible for paying the entire premium. Finally, it is assumed that the individual has access to Medicare.

Age at Death	Employment Based Retiree Health Premiums and Out-of – Pocket Cost
80	$219,000
85	307,000
90	409,000
95	524,000
100	656,000
Source: *EBRI Issue Brief No. 295 • July 2006 • © 2006 EBRI • www.ebri.org*	

A 65-year-old retiring in 2016, who lives to age 80, will need $219,000 in savings (at age 65) to pay for premiums and to cover out-of-pocket expenses each year. In contrast, an individual who lives to age 90 will need $409,000 at age 65 in savings to pay for premiums and out-of-pocket expenses. Using a life expectancy of 82 for men and 85 for women, an average couple will need $560,000 at age 65 for premiums and out-of-pocket expenses.

Of course, couples who live past average life expectancy will need to save more money than in the example, while those who do not reach average life expectancy would need to save less. Likewise, retirees who do not have Medicare benefits will incur higher costs and will need to save more.